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January 8, 2014

Mr. John F. Sullivan, III, P.E.  
Division Administrator  
Federal Highway Administration  
310 New Bern Avenue, Suite 410  
Raleigh, N.C. 27601

SUBJECT: Federal Draft Supplemental Environmental Impact Statement for the Monroe Bypass/Connector Toll Facility, Union and Mecklenburg Counties, N.C. TIP Project Nos.: R-3329/R-2559; CEQ No.: 20130354

Dear Mr. Sullivan:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject document and is commenting in accordance with Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The Federal highway Administration and the North Carolina Department of Transportation (NCDOT; formerly sponsored by the North Carolina Turnpike Authority) are proposing to construct an approximate 20-mile, multi-lane, median divided bypass and toll facility from I-485 at US 74 to US 74 between the Towns of Wingate and Marshville in Union and Mecklenburg Counties, N.C.

EPA provided detailed review comments on the Final Environmental Impact Statement (FEIS) on July 12, 2010 and Draft Environmental Impact Statement (DEIS) on June 15, 2009. EPA understands the reasons and conditions under which the FHWA and NCDOT have prepared the DSFEIS. EPA acknowledges that the transportation agencies responded to EPA's FEIS comments letter and that the responses are included in Appendix 2, Table A-11. EPA further acknowledges the additional traffic analysis and indirect and cumulative effects modeling that was performed following the August 2010 Record of Decision (ROD). EPA's detailed technical review comments which focus on the potentially unresolved environmental issues associated with the FEIS are included in an attachment to this letter (See Attachment A).

In summary, EPA continues to have some environmental concerns regarding water quality issues in 6 catchments, implementation of a detailed mitigation plan that provides for compensatory mitigation for all direct jurisdictional impacts and Mobile Source Air Toxics

(MSATs) issues. EPA requests a copy of the FSFEIS when it becomes available and plans to continue to participate on the NCDOT's inter-agency coordination team. Please feel free to contact me or Mr. Christopher Militscher of my staff at [miliischer.chris@epa.gov](mailto:miliischer.chris@epa.gov) or 404-562-9512 should you have any questions or want to discuss these comments.

Sincerely,



Heinz J. Mueller, Chief  
NEPA Program Office  
Office of Environmental Accountability

Attachment A

Cc: R. Hancock, NCDOT, w/attachments  
S. McClendon, USACE, w/attachments  
A. Chapman, NCDENR, w/attachments  
J. Harris, NCDOT, w/attachments

**Attachment A**  
**Detailed Technical Comments on the Draft Supplemental FEIS**  
**Monroe Bypass/Connector Toll Facility**  
**Union and Mecklenburg Counties, N.C.**  
**TIP Project Nos.: R-3329/R-2559**

**Changes to the Proposed Project since the FEIS/ROD**

FHWA and NCDOT have provided a summary evaluation of changes since the 2010 FEIS in Table P-1. In addition, the transportation agencies also provided a listing of all of the updated studies and coordination since the FEIS on pages P-9 to 10. Updated information summarized in Table P-1 included primarily items associated with the purpose and need for the proposed project (e.g., Updated 2010 Census data), the preferred alternative DSA D, updated costs, land use transportation plans, traffic noise, air quality, utilities and infrastructure, water resources, natural communities, Federally protected species, and land use change. EPA notes that there has been an update to the Clean Water Act Section 303(d) impaired waters for 2012 which now also includes Stewarts Creek which is located in the project study area. In EPA's detailed review comments on the FEIS on July 12, 2010, Stewarts Creek was one of 4 impacted jurisdictional streams included on the 303(d) list. The other 3 impacted streams identified are North Fork Crooked Creek, South Fork Crooked Creek and Richardson Creek.

In addressing EPA's comments concerning avoidance and minimization measures jurisdictional aquatic resources, the transportation agencies essentially defer final design and impact designs to their selected Design-build Team (page A2-47, Response #7). EPA's comments regarding jurisdictional wetland and stream impacts are partially addressed in Response # 18 thru #22. EPA acknowledges the comments concerning functional designs and impact calculations. However, the overall impacts to jurisdictional resources actually increased following agency coordination meetings on avoidance and minimization between the DEIS and FEIS stages. The transportation agencies attribute the increases to the addition of service roads, design refinements and updated field work. EPA's specific comments concerning the increase of impacts from DSA D identified in Comment # 20 have not been completely addressed with respect to meeting the requirements under the Clean Water Act Section 404(b)(1) guidelines on avoidance and minimization.

The transportation agencies identify the direct impact to jurisdictional wetlands and streams in Section 4.4.4 of the SD FEIS. Total stream impacts remain essentially the same from the FEIS at 23,082 linear feet and wetland impacts at 8.1 acres. There are 3.1 acres of ponds impacted as well. The responses to EPA's comments concerning compensatory mitigation for unavoidable impacts to aquatic resources refer the reader to the website at [http://www.ncdot.gov/projects/monoreconnector/download/monroe\\_FEIS\\_conceptualmitigation.pdf](http://www.ncdot.gov/projects/monoreconnector/download/monroe_FEIS_conceptualmitigation.pdf)

This February 12, 2010, Technical Memorandum from the transportation agencies consultant only addresses potential on-site mitigation opportunities and does not address the

specific requirements in the USACE/USEPA 2008 Final Mitigation Rules found at 33 CFR Parts 325 and 332 and 40 CFR Part 230. There were 4 potential sites identified that in total do not provide full compensatory mitigation for the proposed project. The SDFEIS and the 2010 technical memorandum do not specifically address the availability of adequate stream and wetland mitigation credits through the N.C. Ecosystem Enhancement Program (NCEEP) if on-site mitigation opportunities are not adequate to meet the project's total impact mitigation needs. EPA requests that the FSFEIS describe in appropriate detail how and where compensatory mitigation for direct impacts to jurisdictional waters will be met consistent with the 2008 Final Mitigation Rules. EPA has reviewed the June 24, 2010, NCEEP mitigation acceptance letters on pages C1-1 and C1-2, requiring 46,166 mitigation units for warm water streams and 16.2 mitigation units for wetlands in the Yadkin CU 03040105. Potential NCEEP mitigation credit sites should be described in the FSFEIS. Past projects located in the Piedmont have had difficulty in finding adequate compensatory mitigation (e.g. Gaston Tollway). The status of the on-site mitigation sites identified in the 2010 Technical Memorandum should also be provided to the EPA.

EPA notes the additional traffic analysis that was performed by the transportation agencies subsequent to the FEIS/ROD. Table 1-2 shows peak hour speeds along existing US 74 Eastbound on the overall corridor as a -4 to -7 mile per hour (mph) below the posted speed limits for the different sections. Table 1-3 shows peak hour speeds along existing US 74 Westbound on the overall corridor as a -8 to -12 mile per hour (mph) below the posted speed limits for the different sections. As expected, peak hour traffic slows along US 74 as it approaches I-485 to Fowler Secrest Road section. Page 1-3 states the following: *"....current real time travel information available from INRIX, Inc., which was validated through travel time field surveys, shows that average travel speeds during peak hours are still lower than posted speed limits"*. The transportation agencies may wish to explain this statement with better clarity in the FSFEIS. EPA infers that the goal of the transportation agencies' proposed project is not to cause an increase in average travel speeds along existing US 74 above posted speed limits. EPA understands the following statements on page 1-3 of the DSFEIS are meant to provide a partial reasoning as to why the current facility is currently congested and why the current US 74 corridor is not expected to operate as a desired high-speed facility in the future due to projected growth in Union County.

EPA recognizes the additional in-depth analysis that have been completed by the transportation agencies regarding revised predictions of indirect and cumulative effects (ICE) resulting from the proposed new location facility. Appendix E and Appendix C of the DSFEIS includes much of the re-analysis studies, explanation of the travel time and demographic assumptions, and coordination with agencies and the public. Appendix E2 includes the March 2010 Interim Guidance on the application of Travel and Land Use Forecasting in NEPA. The re-analysis by FHWA and NCDOT including the model assumptions and changes to the baseline assessment (i.e., Build vs. No-build) appears to be reasonable. Per our previous comments, EPA is primarily concerned with the cumulative effects of additional impervious surfaces resulting from the direct impacts (i.e., 23,082 linear feet of streams and 8.1 acres of wetlands) and the indirect impacts (predicted to be approximately 1% increase within the project study area) from additional development from the new facility. Due to past accelerated development a number of

streams in the project study area as identified in the DSFEIS are already listed as impaired under Clean Water Act criteria.

EPA is aware of the FHWA and NCDOT policy of not mitigating for indirect and cumulative effects to water quality resulting from third party activities and that only direct impacts are required to be mitigated for under the Clean Water Act. However, NEPA allows (and encourages) Federal project sponsors to identify reasonable and prudent mitigation for all predicted impacts resulting from their projects. EPA recognizes the updated information provided by FHWA and NCDOT concerning the proposed Legacy Park development site near the eastern termini of the project on page C3-135 and that the current proposal is not incorporated into any local plans.

#### FEIS Responses to EPA's July 12, 2010, Letter

FHWA and NCDOT provided responses to comments #1 thru #6 on pages A2-45 to A2-47 concerning past DEIS comments, alternative analyses and an economic analysis. For comment/response #6, the transportation agencies did not fully understand that EPA was not requesting a 'formal' socio-economic analysis for businesses along existing US 74 once traffic is removed by a new facility. However, the ICE should identify and disclose the potential socio-economic effect of removing a large volume of regional and local traffic off existing US 74. As stated in the DSFEIS, US 74 has grown extensively to be a 'commercial corridor' and it has added numerous access points for businesses over the years. The large number of 'drive-cuts' has helped caused congestion. There are several examples in N.C. where bypasses have removed traffic from downtown commercial areas and over time those businesses relying on local and regional travel have seen a substantial decline once the new facility is constructed (e.g., Ahoskie Bypass). The comment that the new bypass facility will provide more opportunity for local traffic to access businesses along existing US 74 is not understood as access to local business has not been reportedly hindered by past approvals for driveway cuts.

FHWA and NCDOT responses on comments #7 thru #9 are noted and discussed above. Regarding response #10 concerning EPA's water quality concerns some of the issues on pollutant loadings have been partially addressed. Several outstanding issues are deferred to the transportation agencies' selected Design Build Team (Consultant and contractor). Six catchments (out of 18) are expected to see 'minor' increases in stream flow, runoff and pollutant loadings. Richardson Creek (Lower) would experience the largest percent increase in runoff (5.97%) and the DSFEIS states: "*The effect in Richardson Creek (Lower) watershed is especially pronounced because a relatively large amount of urban development is projected in a relatively small watershed*". Types of structural BMPs are generally identified in the response but the details cannot be provided because: "*requires site specific information is unavailable at this time*". Because this project as proposed was already permitted by NCDENR and USACE, the site specific information for the identification of specific BMPs should be known and identified in the FSFEIS. EPA acknowledges the statement regarding the enforcement of municipal ordinances and stormwater requirements.

Regarding FHWA and NCDOT's response on comment #13, air quality with emphasis on Mobile Source Air Toxics, the transportation agencies have not identified near-roadway potential sensitive receptors such as hospitals, schools, day care facilities, and nursing homes as requested by EPA in its DEIS and FEIS comments. The response also fails to recognize potential issues associated with the compliance with E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. EPA identified 3 elementary schools and 1 high school where MSATs could be a 'potential' near-roadway exposure issue and requested monitoring to be performed by the transportation agencies. Also, we have discussed the desirability of outreach with the school administration concerning potential MSAT issues and potential BMPs. We suggest that this be given further consideration in the final.

EPA acknowledges the responses provided to comments #11, 12, and 14 thru 28.